

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated December 17, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-20 are pending in the Application. Claims 16-20 are added by this amendment. By means of the present amendment, the claims are amended to clarify that which is recited in the claims. Further amendments include correcting certain informalities noted upon review of the claims. By these amendments, the claims are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

In the Office Action, claims 1-15 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,418,837, to Obersteiner ("Obersteiner"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-20 are allowable over Obersteiner for at least the following reasons.

While each of Obersteiner and the present patent application are directed to solving a problem of an efficient and low-cost solution for keeping and storing accessories of a kitchen appliance, such as a food processor (see, Obersteiner, Col. 1, lines 22-26 and present patent application, page 1, lines 9-23), it is respectfully submitted that each of Obersteiner and the present patent application solve this problem in completely different ways. As such, it is respectfully submitted that Obersteiner has nothing to do with the features of the present claims.

Obersteiner uses first and second covers that together bound a hollow space, and in which the hollow space serves to accommodate unused accessories of the kitchen appliance. (See, Obersteiner, Col. 1, lines 43-47 and Col. 3, lines 31-36.) As made clear from each of FIGs. 2 and 4 of Obersteiner, the unused accessories (such as cutters 30 and 31, of the kitchen appliance are separated from the cutting disc 16 which is positioned to be used (see, Obersteiner, Col. 2, line 64 through Col. 3, line 8) and as such, the cutting discs are not formed into a tool unit. In Obersteiner, should a user desire to replace the cutting disc 16 with one of the other cutting discs 30, 31, the cutting disc 16 would have to be removed from the drive turret 15 and the one of the cutting discs

30, 31 would be placed on the drive turret 15. Presumably, the cutting disc 16 may then be placed into the hollow space formed by the covers.

The Office Action seems to recognize the deficiencies in Obersteiner in that the Office Action states "[t]he patent to Obersteiner discloses the claimed subject matter except for such design features of ... at least two tools are combinable to form a tool unit." The Office Action then goes on to state that "[h]owever, such design features are considered obvious features that are deemed an obvious matter of design choice and well within the ordinary skill in the art and it would have been further obvious to one having ordinary skill in the art at the time the invention was made to have provided Obersteiner with such a structural design feature as claimed ..." (See, Office Action, page 2.)

This position of the Office Action is respectfully traversed. It is respectfully submitted that Obersteiner does not disclose or suggest combining the tools into a tool unit. In fact, in Obersteiner the tool that is currently in a position to be used (cutting disc 16), is positioned in a separate cavity from the cutting discs 30, 31 that are being stored.

It is respectfully submitted that although each of Obersteiner and the present application may be directed to solving a similar problem, namely storage of accessories of the kitchen appliance, Obersteiner shows significant different technical features for solving the problem.

The position that the design features recited in the present claims are obvious design choices is merely a conclusory statement which finds no support in Obersteiner. In fact, it is respectfully submitted that the Office Action fails to make a prima facie case for obviousness.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a prima facie case of obviousness. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1442, 1444 (Fed. Cir. 1992). See also In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art of knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

In this case, the Office Action has failed to make such a showing.

It is respectfully submitted that the food processor of claim 1 is not anticipated or made obvious by the teachings of Obersteiner. For example, Obersteiner does not disclose or suggest, a food processor that amongst other patentable elements, comprises (illustrative emphasis added) "a holder for holding the tools, which holder can be driven by the driving means and which holder is equipped with a holder wall and which holder has a window in the holder wall, in said window the tools held by the holder can be positioned one at a time, wherein the at least two tools are combinable combined to form a tool unit, wherein the tool unit is relocatable in relation to the holder, wherein one tool at a time from the tool unit can be positioned in the window, in which case the at least one other tool from the tool unit is aligned facing towards the holder wall and covered by the holder wall" as recited in claim 1, and as similarly recited in each of claims 8 and 16.

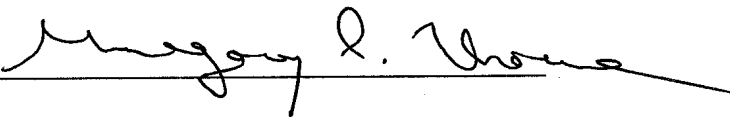
Based on the foregoing, the Applicants respectfully submit that independent claims 1, 8 and 16 are patentable over Obersteiner and notice to this effect is earnestly solicited. Claims 2-7, 9-15 and 17-20 respectively depend from one of claims 1, 8, and 16 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims.

While the Office Action has taken a position that the elements of the dependent claims do not solve any stated problem, this position is respectfully refuted. It is respectfully submitted that the dependent claims are directed to elements of the present food processor that provide significant advantages over the prior art system as for example discussed in the present patent application, page 2, line 14 through page 4, line 6. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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